

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 27, 36, 92-95, 103 and 110-121 are pending in the application, with claim 27 being the sole independent claim. Claims 44-46, 70, 72 and 105-109, directed to non-elected subject matter, are sought to be canceled without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to pursue the subject matter of claims 44-46, 70, 72 and 105-109 in one or more divisional applications. Claims 110-121 are sought to be added. Claim 27 is sought to be amended. No new matter is added by way of these amendments. It is respectfully requested that the amendments be entered and considered.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

I. Support for Amended and New Claims

Support for amended claim 27 can be found throughout the specification, for example, at page 13, line 10. Support for new claims 110-121 can be found throughout the specification, for example, at page 9, lines 4-13.

II. Claim Rejections Under 35 U.S.C. § 102

Claims 27, 36, 92-95 and 103 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,835,586 ("Peebles") and WO 95/00031 ("Getler"), as evidenced by U.S. Patent No. 6,140,121 ("Ellington"), BBL Manual of Products and Laboratory Procedures ("BBL Manual"), and Fassolitis *et al.*, *Appl. and Env. Microbiol.* 42:200-203 (1981) ("Fassolitis"). *See* Office Action dated December 21, 2004, page 2. This rejection is respectfully traversed in part, and is obviated by amendment in part.

Peebles and Getler each refer to agglomerated dry milk. However, neither of these two references teaches that a liquid obtained by adding water to this agglomerated dry milk can be used as culture media. Nevertheless, the Examiner contends that the agglomerated dry milk of Peebles and Getler is capable of inherently supporting the cultivation of a eukaryotic cell *in vitro* as taught by Ellington, BBL Manual, and Fassolitis.

In regard to BBL Manual, the Examiner specifically points to the section entitled "Milk-Protein Hydrolysate Peptone" on page 161 and the section entitled "Skim Milk Powder" on page 162. *See* Office Action, page 4. However, the former section states that Milk-Protein Hydrolysate Peptone "is a useful tool for general *bacteriological* culture work," while the latter section states that Skim Milk Powder is "suitable for use in a variety of *bacteriological* procedures." (Emphases added.) Neither section states that milk can support the cultivation (or proliferation) of a *eukaryotic* cell *in vitro*.

Additionally, the Examiner states that "Ellington clearly teaches that cell culture media comprising milk products, *e.g.*, skim milk, support the cultivation of eukaryotic cells."

See Office Action, page 5 (citing Ellington at column 5, lines 29-44). However, although this reference may state that eukaryotic cells can be *maintained* in a medium containing skim milk, it does not teach that such a medium supports the *proliferation* of a eukaryotic cell *in vitro*.

The Examiner also states as follows:

Fassolitis teaches a method for the cultivation and/or growth of eukaryotic cells, *i.e.*, epithelial cells, using a powdered nonfat dry skim milk filtrate (NDMF) as an eukaryotic cell culture medium.... On page 200, Column 2, under 'Cell culture medium', Fassolitis teaches a cell culture medium supplemented with 5% NDMF, and adjusted to a pH of 6.8 to 7.4 that is used to propagate epithelial cells (*see* Table 1 on page 201). Thus, as evidenced by BBL Manual of Products and Laboratory Procedures and Fassolitis, the prior art agglomerated dry powders taught by Peebles and Getler are deemed agglomerated eukaryotic cell culture medium powders that are able to support the cultivation of a eukaryotic cell *in vitro* upon reconstituted [sic] with water and inherently have the claim-designated pH range.

Office Action, paragraph bridging pages 4 and 5 (underlining in original). However, Fassolitis in no way demonstrates that the particular agglomerated dried milk of *Peebles* or *Getler* is capable of supporting the cultivation or proliferation of a eukaryotic cell *in vitro*. Rather, Fassolitis only states that a mixture of 50% Leibovitz L-15 medium and 50% Eagle minimal essential medium containing L-glutamine, nonessential amino acids, Hanks salts, 0.0375% sodium bicarbonate, and 20 mM HEPES buffer, *and merely supplemented with 5% NDMF as a substitute for serum* is capable of supporting the growth of an epithelial cell *in vitro*.

Thus, the Examiner clearly has not demonstrated that the milk products of either Peebles or Getler are inherently capable of supporting the growth of a eukaryotic cell *in*

vitro. The Examiner's rejection of the claims is therefore inapposite. Applicants respectfully request that the rejections under 35 U.S.C. § 102 be reconsidered and withdrawn.

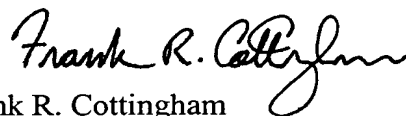
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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